

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE: Vaso Active Pharmaceuticals Inc.

---

John J. Masiz,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 13-1992
	:	Bankruptcy Case No. 11-52005 (CSS)
Jeoffrey L. Burtch,	:	AP No. 13-103
	:	
Appellee.	:	

**RECOMMENDATION**

At Wilmington this **12<sup>th</sup>** day of **December, 2013**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. In a companion matter, *Masiz v. Burtch*, 13-169-LPS, appellant appealed similar issues and on December 9, 2013, the Court entered an Order consolidating appellant's first appeal and his second appeal under 13-169-LPS. In the first appeal, the parties engaged in two unsuccessful mediation sessions, one in Bankruptcy Court and the other in this Court, held before this judge. Prior to September 2013, this judge had numerous private teleconferences regarding settlement with all interested parties, including those not

involved in the appeal. In September 2013, further exploration with counsel occurred to determine whether a third mediation regarding appellant's first appeal would be beneficial. The parties' submitted mediation letters. Those letters indicated further mediation would not be helpful. As a result, this judge issued a Recommendation that the Bankruptcy Appeal be withdrawn from mandatory mediation. D.I. 9, C.A. No. 13-169-LPS. No objection was filed to this Recommendation.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. In light of counsel's positions, it is unlikely that objections will be filed to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE